

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Document prepared by: Christopher M. Gratz, Planner II

SUBJECT: Variance, V 10-1-02 Raul Hernandez, 1301 Bristol Avenue/ Generally located on the west side of Bristol Avenue, 100' north of Alexandria Court.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM:

V 10-1-02, Hernandez, 1301 Bristol Avenue (R-1)

REPORT IN BRIEF:

The petitioner has requested to reduce the required minimum side yard on the south side of the subject site from 25' to 15.5' in order to allow the construction of an addition to the dwelling.

PREVIOUS ACTIONS: None.

CONCURRENCES:

At the December 11, 2002, Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Ms. Turin, to approve (Motion carried 4-0, Mr. Waitkus was absent).

FISCAL IMPACT: None

RECOMMENDATION(S):

Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s):

Planning Report, Justification, Survey, Consent letters, Land Use Map, Zoning and Aerial Map

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division Staff
Report and Recommendation

APPLICANT INFORMATION

Owner/Agent:

Name: Raul Hernandez
Address: 1301 Bristol Avenue
City: Davie, FL 33325
Phone: (954) 302-9787

BACKGROUND INFORMATION

Date of Notification: December 4, 2002 **Number of Notifications:** 25

Application History: No deferrals have been requested.

Application Request: Variance **FROM:** Section 12-81(A) of the Land Development Code which requires a minimum 25' side yard; **TO:** reduce the minimum side yard on the south side of the subject site to 15.5' in order to allow construction of an addition to the dwelling.

Address/Location: 1301 Bristol Avenue/ Generally located on the west side of Bristol Avenue, 100' north of Alexandria Court.

Future Land Use Plan Designation: Residential (3 DU/ AC)

Zoning: R-1, Estate Dwelling District

Existing/Proposed Use: Single family dwelling

Parcel Size: 0.92 acres (39,935 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	Single family dwelling	Residential (3 DU/ AC)
South:	Single family dwelling	Residential (3 DU/ AC)
East:	Water retention area	Residential (3 DU/ AC)
West:	Single family dwelling	Residential (3 DU/ AC)

Surrounding Zoning:

North: R-1, Estate Dwelling District
South: R-1, Estate Dwelling District
East: R-1, Estate Dwelling District
West: R-1, Estate Dwelling District

ZONING HISTORY

Previous Requests on same property: The site plan, SP 12-6-86 Shenandoah Section Three, was approved on February 4, 1987.

APPLICATION DETAILS

The petitioner has requested to reduce the required minimum side yard on the south side of the subject site from 25' to 15.5' in order to allow the construction of an addition to the dwelling.

Applicable Codes and Ordinances

Section 12-81 (A) of the Land Development Code, Conventional Residential Development Standards, requires 25' minimum side yards in the R-1, Estate Dwelling District.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 3. Planning Area 3 is bound by I-595 on the north side, I-75 on the west side, SW 14 Street on the south side and Flamingo Road on the east side. The planning area consists of residential uses developed at a density of 3 to 10 dwellings per acre, including the Shenandoah development, occupying the western half of the planning area, and several mobile home subdivisions.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-7:* Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

Staff Analysis

The intent of the 25' side yard required by the Land Development Code is for the consistent placement of structures and to maintain openness provided by the minimum 50' separation between structures, within the R-1, Estate Dwelling District. The subject site has special circumstances in that it is an odd shaped lot. Granting this request will not diminish the open space in such a way that it will infringe upon neighboring properties. Furthermore, the adjacent neighbors and the Shenandoah Homeowners Association have provided their written consent to the request. Staff has conducted an inspection of the subject site and finds that the

request will not be detrimental to the neighborhood. However, based upon the literal interpretation of the Code that staff must make, the granting of this request is not necessary as the owner already has reasonable use of the land.

Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are special circumstances or conditions applying to the land or building for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do apply generally to land or buildings in the same district; and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought; and that alleged hardship is self-created by any person having an interest in the property.

The subject site is an odd shaped lot; the conditions generally apply to land in the same district; the circumstances would not deprive the applicant of reasonable use of the land since it has already been achieved without a variance; the variance request is created by the petitioner's desire to construct an addition to the residence.

- (b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

Granting of the variance is not necessary for reasonable use of the land, since reasonable use has been achieved without a variance. The request is the minimum the owner needs to construct the desired addition to the residence.

- (c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side yard to be reduced to 15.5' will not be detrimental to the neighborhood.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the December 11, 2002, Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Ms. Turin, to approve (Motion carried 4-0, Mr. Waitkus was absent).

Exhibits

1. Justification
2. Survey
3. Consent letters
4. Land Use Map
5. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

Narrative/Justification
Hernandez Variance Application

Applicant Raul Hernandez ("Applicant") lives at 1301 Bristol Avenue in the Town of Davie ("Town"). Due to the growing needs of his family, Applicant now desires to augment his current home through the addition of a room (the "Addition") on the southern face of his home. However, Applicant's home is located in the Town's R-1 Zoning District, which requires a side yard and/or setback measuring twenty five (25) feet. Due to the nature and shape of Applicant's property, the Addition will impede slightly (the encroachment ranges between one (1) to eight (8) feet) into the established setback. Therefore, in furtherance of its development proposal, Applicant seeks a variance permitting Applicant to encroach into the established setback, in contravention of the requirements set forth in Section Sec. 12-81 of the Town's Code of Ordinances ("Code").

As discussed below, the granting of the requested variance will adhere to the variance review criteria set forth in Code Section 27-804, as Applicant will demonstrate: (A) that peculiar circumstances warrant the present variances, shared by other properties in the same zoning district; (B) that these circumstances are not self-created; (C) that to proceed otherwise would deny Applicant reasonable use of its property; (D) that the proposed variances are the minimum variances that will accomplish Applicant's stated purpose; and (E) that allowing the requested variance will be in harmony with the general purpose and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

A. Unique and Special Circumstances or Conditions Exist that Are Not Shared by Other Properties in the Same Zoning District and Are Not Self-Created.

Special circumstances exist in the present case that warrants the granting of the requested variance. In fact, the variance at issue is simply the direct result of the size and shape of Applicant's particular piece of property, which is sharply angled on the southern side. Clearly then, these circumstances are not self-created.

B. Strict Application of the Code Would Deprive Applicant of Reasonable Use of its Property.

Strict application of the Code would deprive Applicant of reasonable use and enjoyment of its property, as there is no other available location on Applicant's Property for the proposed Addition. The only available space to accomplish the Addition – the portion of Applicant's side yard that is adjacent to the family bedrooms and dining room – would require architectural integrity. As stated above, a family bedroom and dining room backs up to the unused portion of the side yard that would accommodate this expansion.

C. Variances Requested are the Minimum Variances Required to Accomplish Reasonable Use of the Property.

This request is the minimum variance requested. All other regulations will be satisfied.

D. Granting of the Variances Will Be in Harmony with the General Intent and Purpose of the ULDR and Will Not be Injurious to the Neighborhood or Otherwise Detrimental to the Public Welfare.

Approval of the requested variance is in harmony with the general intent and purpose of the Code. Indeed, the Code speaks to the Town's desire to implement policies that are efficient, effective and equitable, with respect for the rights of property owners and the consideration of the interests of Town citizens. The variance requested is entirely consistent with the Code's general intent and purpose, as:

- It will preserve the overall appearance of the neighborhood and maintain the architectural integrity of Applicant's home;
- Applicant will comply with all other Code requirements – including the maintenance of sufficient open space.
- Applicant will not interrupt any of his neighbors' view of the lake abutting his property, and has obtained letters of support from both his adjoining neighbors and the home owners' association.

Accordingly, this variance request is simply the result of the growing needs of a family that is located on an oddly-shaped lot, with a home that has an architectural structure that requires the present action. The integrity of the neighborhood will be preserved, and the abutting neighbors have expressed their support of this variance. No inconsistent or illogical precedent will therefore be established through the granting of this variance.

Sincerely,

Raul Hernandez

August 29, 2002

Town Council Members
Town Hall
6591 Orange Drive
Davie, FL 33314

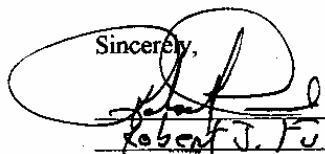
Re: *Variance Application Relating to Proposed Addition to Hernandez
Residence (located at 1301 Bristol Avenue, Lot 39 of Shenandoah Section
Three of Davie Plat, recorded in the public records of Broward County at
Plat Book 130, Page 22)*

Dear Council Members:

As President of the Shenandoah Homeowners' Association ("Association"), I am writing to convey to the Town Council our strong support for the above-described variance application ("Variance"). The Association includes 1 single-family home located at 1301 BRISTOL AVE. We believe that the Variance will be consistent with the guidelines of our community, and appreciate all efforts Mr. Hernandez has made to notify us of his efforts, and to involve us in the process.

If you have any questions, please do not hesitate to call.

Sincerely,


President *Property Manager*
Robert J. Funke

cc: Raul Hernandez

John A Liner & Patricia Marlow
1221 Bristol Ave
Davie, FL 33325

August 21, 2002

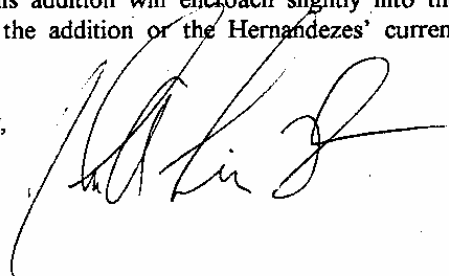
Town Council Members
Town Hall
6591 Orange Drive
Davie, FL 33314

*Re: Variance Application Relating to Proposed Addition to the Hernandez
Residence (located at 1301 Bristol Avenue, Lot 39 of Shenandoah Section
Three, recorded in the public records of Broward County at Plat
Book 130, Page 22)*

Dear Council Members:

I reside at 1221 Bristol Avenue in the Town of Davie ("Town"), and am the next-door neighbor to Raul and Acelia Hernandez. The Hernandezes recently approached me to discuss their proposed addition to their home, and have allowed me to view all plans for the proposed addition. I understand that this addition will encroach slightly into the setback. However, I have no objection to the addition or the Hernandezes' current variance application, and support their efforts.

Sincerely,



cc: Raul Hernandez
Town Council Members
Town Hall
Shenandoah Board Association
DRB

Harry & Audrey Venis
1321 Bristol Ave
Davie, FL 33325

August __, 2002

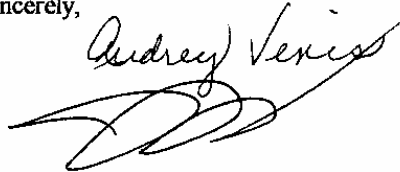
Town Council Members
Town Hall
6591 Orange Drive
Davie, FL 33314

Re: Variance Application Relating to Proposed Addition to the Hernandez Residence (located at 1301 Bristol Avenue, Lot 39 of Shenandoah Section Three, recorded in the public records of Broward County at Plat Book 130, Page 22)

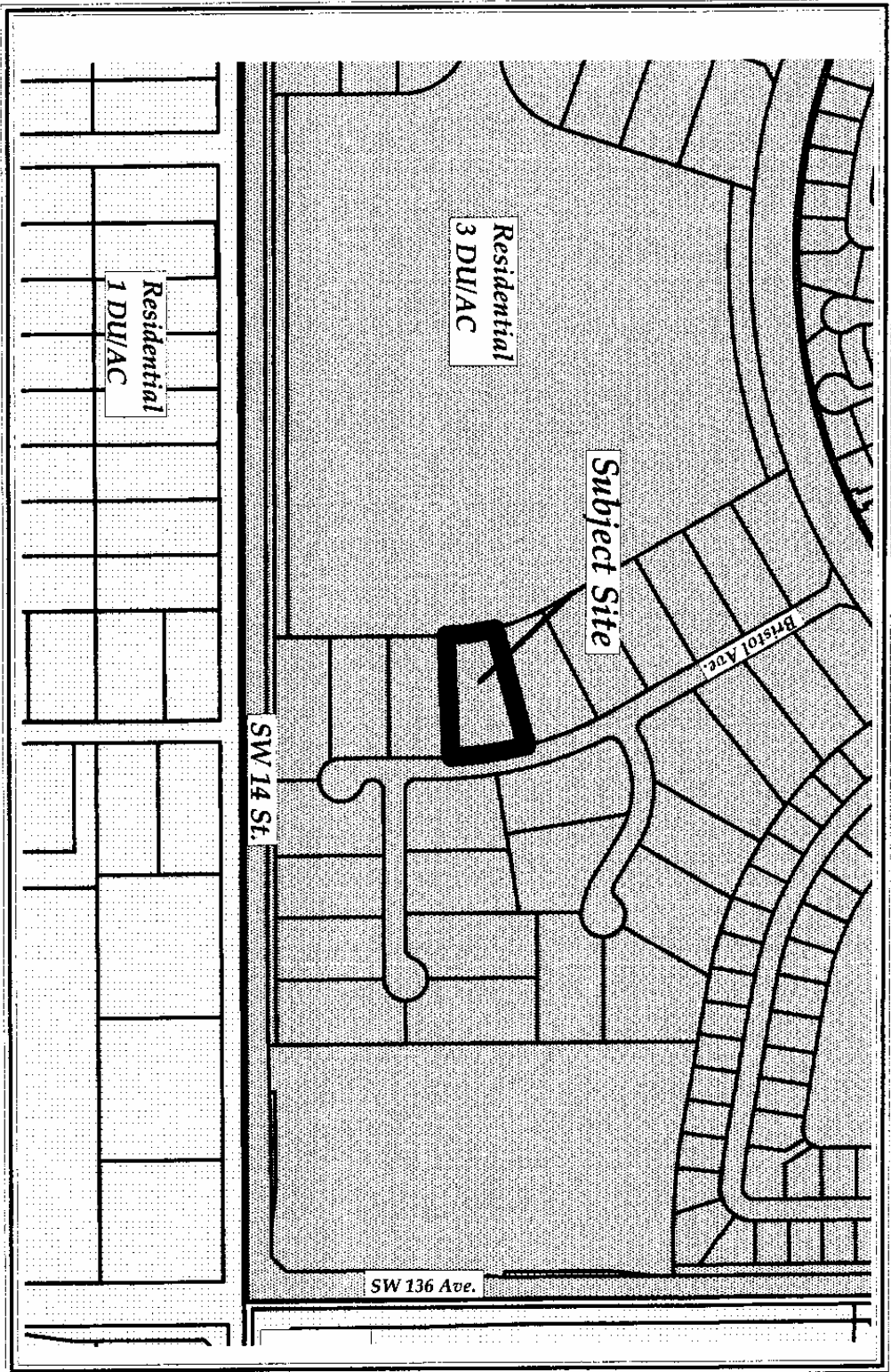
Dear Council Members:

I reside at 1321 Bristol Avenue in the Town of Davie ("Town"), and am ^{CL} ~~the next-door~~ neighbor to Raul and Acelia Hernandez. The Hernandezes recently approached me to discuss their proposed addition to their home, and have allowed me to view all plans for the proposed addition. I understand that this addition will encroach slightly into the setback. However, I have no objection to the addition or the Hernandezes' current variance application, and support their efforts.

Sincerely,



cc: Raul Hernandez
Town Council Members
Town Hall
Shenandoah Board Association
DRB



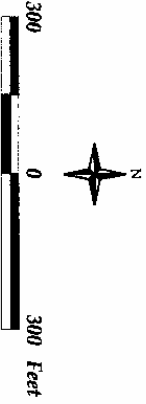
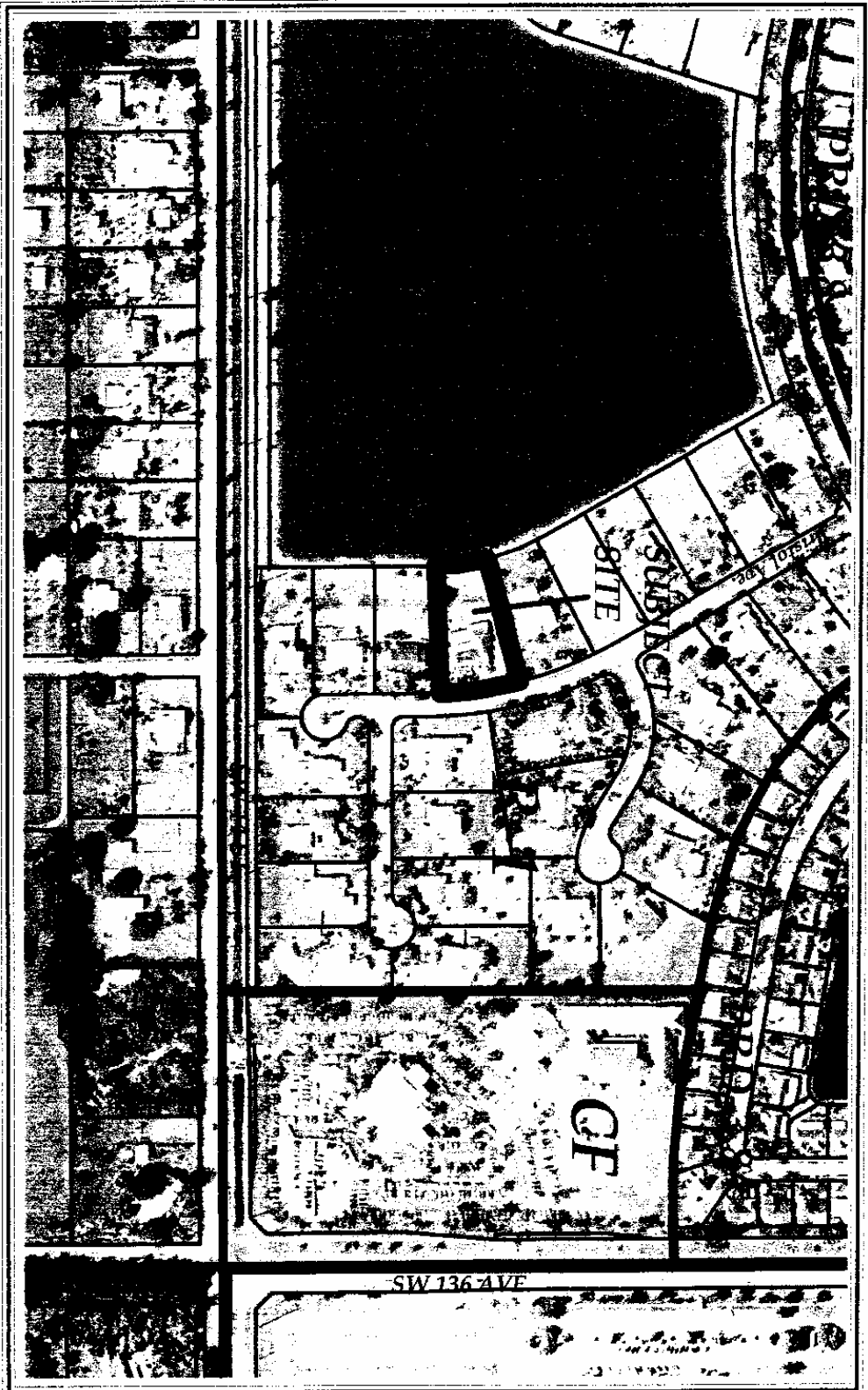
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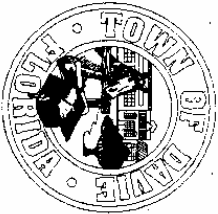
Planning & Zoning Division - GIS



Variance
V 10-1-02
Existing Future Land Use Map



Planning & Zoning Division - GIS



Variance
V 10-1-02
Subject Site and Aerial Map

Date Flown: 12/31/01